

Settlement/Hearing: September 26th, 2018
Time: 10:00 A.M. .

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
IN RE:

RICHARD FRANCese,

Chapter 13
Case No. 17-23079 RDD

NOTICE OF SETTLEMENT

Debtor(s)

- - - - -x

PLEASE TAKE NOTICE, that an *Order*, a true copy of which is annexed hereto, will be presented for signature to the Hon. Robert D. Drain, United States Bankruptcy Judge, on the 26th day of September, 2018 at 10:00 A.M., at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York.

Hearings on Objections, if any, to be conducted same place, date and time.

Written objections or counterorders must be submitted to chambers by no later than close of business *three (3) days prior* to settlement.

Dated: White Plains, New York
August 20th, 2018

/s/ Krista M. Preuss
Krista M. Preuss (KMP7299)
Chapter 13 Trustee
399 Knollwood Road
White Plains, New York 10603
Chapter 13 Tel. No. 914-328-6333

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x
IN RE:

RICHARD FRANCese,

Debtor(s)

- - - - -x
Chapter 13
Case No. 17-23079 RDD

ORDER DISMISSING CHAPTER 13 CASE

The chapter 13 trustee having moved, on due notice, for an order dismissing this chapter 13 case, and, upon the motion and the record of the September 26, 2018 hearing thereon, the Court having found that the above-captioned debtor has failed to comply with 11 U.S.C. 1307(c)(1) and (c)(4) and 11 U.S.C. §521(i) and (e)(2)(A)(i), having created unreasonable delay that is prejudicial to creditors, in that the debtor failed to remit timely proposed chapter 13 plan payments to the trustee, failed to provide the required documentation, in part, payment advices and evidence of other payments received within 60 days, inclusive of monthly business operating statements; and Federal and New York State tax returns for certain of the most recent tax years; and loss mitigation under General Order M-412 having been denied; and the Court also having found that the debtor's plan is not feasible and that the debtor is unable to confirm a plan; and good cause appearing,

IT IS ORDERED THAT:

This chapter 13 case is hereby dismissed. The chapter 13 trustee shall take all actions required by the dismissal of this case.

Dated: White Plains, New York
September , 2018

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

RICHARD FRANCese,

Chapter 13
Case No. 17-23079 RDD

TRUSTEE'S AFFIDAVIT

Debtor(s)

- - - - - x
STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

Krista M. Preuss, being duly sworn, deposes and says:

1. She is the standing Chapter 13 Trustee.
2. The debtor filed a Chapter 13 proceeding on July 12th, 2017.
3. A hearing on confirmation was held on August 15th, 2018.
4. The debtor failed to comply with the provisions of 11 U.S.C. §1307(c)(1) and (c)(4).
5. The debtor is in violation of 11 U.S.C. §521(i) of the Bankruptcy Code which requires the debtor to file , in part, payment advices and evidence of other payments received within 60 days inclusive of monthly business operating statements.
6. The debtor is in violation of §521(e)(2)(A)(i) of the Bankruptcy Code which requires the debtor to provide copies of federal and state tax returns for certain of the most recent tax years, to wit, 2017.
7. The debtor failed to remit timely proposed plan payments to the trustee, having remitted eleven payments to date, or the sum of \$5,500.00, and being, at this juncture, two months in arrears., or the sum of \$1,000.00.
8. Loss mitigation has been denied and the lender is seeking termination.

9. The debtor's plan is deemed insufficient and infeasible.
10. Additionally, the debtor has failed to provide the trustee with certain of the required documentation, to wit, a third-party affidavit of contribution.
11. At the aforesaid confirmation hearing held on August 15th, 2018, the debtor's case demonstrated infeasibility and an inability to confirm.
12. The delay created by the debtor is prejudicial to creditors.

WHEREFORE, the trustee respectfully requests that the annexed order dismissing this case be signed.

/s/Krista M. Preuss
Krista M. Preuss

Sworn to before me this
20th day of August, 2018
/s/ Jody L. Kava

Jody L. Kava
Notary Public, State of New York
No. 02KA4836806
Qualified in Westchester County
Term Expires: 10/31/21

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

RICHARD FRANCese,

Chapter 13
Case No. 17-23079 RDD

Debtor(s)

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CERTIFICATE OF SERVICE

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in the County of Westchester, State of New York.

On August 20th, 2018, I served a true copy of the within document, to the herein listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed envelope with postage prepaid thereon, in an official depository of the United States Postal Service within the State of New York to the following:

Richard Francese
96 Gilbert Avenue
Pearl river, New York 10965

Allen A. Kolber, Esq.
134 Route 59 Suite A
Suffern, New York 10901

Seterus, Inc.
c/o Gross Polowy, LLC
1775 Wehrle Drive # 100
Williamsville, New York 14221

Federal National Mortgage Association
c/o Seterus, Inc.
P.O. Box 1047
Hartford, Connecticut 06143

/s/ Lois Rosemarie Esposito
Lois Rosemarie Esposito